

THE HON'BLE Ms. JUSTICE G. ROHINI

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W.P.No.10124 OF 2005

ORDER:

When the vacate petition filed by the respondents is listed for hearing, with the consent of both parties, the main Writ Petition itself is heard and decided.

The petitioner claims to be the lessee in respect of Ac.3.50 cents of land situated in Sy.No.202 of Somavaram village, Nandigam Mandal, belonging to the 2nd respondent-Sri Mallikarjuna Swamy Temple, Somavaram village. It is stated that initially his father was granted lease and he cultivated the land for more than 20 years. After his death, the petitioner has been continuing in possession by virtue of the lease granted in the year 2003. It is further stated that the said lease is valid up to the years 2004-2005 on an annual lease amount of Rs.4,000/-. However, during the subsistence of the said lease when the 2nd respondent proposed to put the leasehold rights of the land to public auction, the petitioner filed W.P.No.10345 of 2004, in which, this Court granted stay of public auction. Subsequently, during the first week of March, 2005, the petitioner approached the 1st respondent-Assistant Commissioner of Endowments, with a request to grant lease for a further period, on the ground that he comes within the definition of landless poor person, as per Section 82(2) of the Charitable & Hindu Religious Institutions & Endowments Act, 1987 (for brevity "the Act"), and therefore, he is entitled to the protection as provided under the Act. He also made a claim before the 1st respondent-Assistant Commissioner of Endowments, seeking to declare him as landless poor. While the said proceedings are pending before the 1st respondent, the 2nd respondent has again proposed to put the leasehold rights of the land in question to public auction. Hence, this Writ Petition questioning the said action of the 2nd respondent.

The main contention of the petitioner is that since the claim made by him before the 1st respondent claiming that he being a landless poor, he is entitled to the benefit of Section 82(2) of the Act, is still pending, the 2nd respondent is not justified in proposing to put the leasehold rights of the land in question to public auction.

Heard the learned counsel for both parties.

Since, admittedly, the petitioner was granted lease in the year 2003, i.e., after the commencement of Act, 30 of 1987, even assuming that the petitioner is a landless poor, he cannot claim the benefit under Section 82 (2) of the Act, but is entitled to continue in possession of the land in question only during the subsistence of the lease granted in his favour. Hence, the relief as prayed for cannot be granted.

The learned counsel for the petitioner, however, submits that since there is a standing crop on the land in question, if the petitioner is dispossessed at this stage, he would suffer irreparable injury. It is also submitted that the petitioner had invested about Rs.20,000/- for raising cotton crop and that he is ready and willing to handover possession of the said land soon after harvesting the standing crop. The learned counsel also submits that the petitioner is ready to deposit the annual rent for the current year. To that effect, the petitioner has filed an affidavit dated 28.09.2005 undertaking to deposit the annual rent with the 2nd respondent.

Having regard to the facts and circumstances of the case, and particularly keeping in view the undertaking given by the petitioner by way of an affidavit, I deem it appropriate to dispose of the Writ Petition with a direction to the respondents not to dispossess the petitioner till the cotton crop standing on the land in question is harvested. However, the same shall be subject to the condition that the petitioner clears the entire arrears of rent within a period of six weeks from today, and subject to further condition that he gives an undertaking before the 2nd respondent that he would vacate the land and handover physical possession to the 2nd respondent immediately after harvesting the standing crop. Such an undertaking shall be filed within a period of two weeks from the date of receipt of this order.

The Writ Petition is accordingly disposed of. No costs.

5th October, 2005.

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THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.10124 OF 2005

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05.10.2005

Between:

Ginjupalli Pulla Rao. . . Petitioner.

And

The Assistant Commissioner of
Endowments, Krishna District,
Vijayawada and another. .. Respondents.